

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FILED
SEP 23 2005

CLERK, U.S. DISTRICT COURT

By Deputy

ISMAEL HOLGUIN HERRERA,
09807-180,

Petitioner,

v.

K.J. WENDT, Warden,

Respondent.

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Civil Action No. 3:04-CV-1430-L

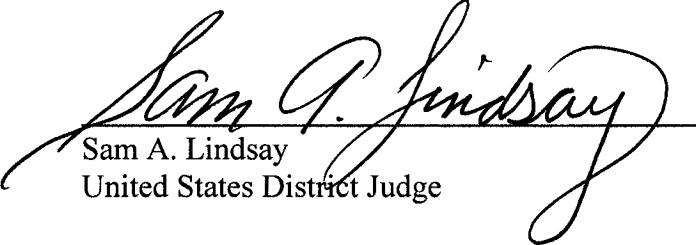
ORDER

Petitioner Ismael Holguin Herrera filed this application for writ of habeas corpus under 28 U.S.C. § 2241. Pursuant to 28 U.S.C. § 636(b), and an order of the court in implementation thereof, this action was referred to the United States magistrate judge for proposed findings and recommendation. On August 1, 2005, the Findings, Conclusions, and Recommendation of the United States Magistrate Judge ("Report") were filed, to which no objections were filed. The magistrate judge recommended that Petitioner's § 2241 petition be denied because the Bureau of Prisons properly denied petitioner eligibility for early release under 18 U.S.C. § 3621(e) through 28 C.F.R. § 550.58 and Program Statement 5162.04. *See* Report at 4-6 (and cases cited therein).

Having reviewed the pleadings, file, and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions are correct in recommending dismissal of the § 2241 petition because Petitioner was properly denied early release. Accordingly, the magistrate judge's findings and conclusions are accepted as those of the court.

Petitioner's § 2241 petition for the writ of habeas corpus is **denied**, and this action is **dismissed with prejudice**. Judgment will issue by separate document.

It is so ordered this 23rd day of September, 2005.


Sam A. Lindsay
United States District Judge